

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 3, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Excused Absence: Council Member Edwards.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

SUBJECT: COUNCIL MEMBER TAMRA EDWARDS - EXCUSED ABSENCE

MOTION by Council Member Stith seconded by Council Member Cole-McFadden to excuse Council Member Edwards from the City Council Meeting was approved at 7:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Council Member Clement requested a moment of silence in memory of the seven astronauts who lost their lives during the Space Shuttle Columbia tragedy.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. Relative to Consent Agenda Item 7 [Contracts], City Manager Conner requested that Mindframes Consulting contract be removed from the agenda, informed Council there will be an additional update provided later in the meeting for Consent Agenda Item 37 [Phoenix Crossing Shopping Center] and acknowledged Brenda Howerton of the Human Relations Commission.

Brenda Howerton, of the Human Relations Commission, gave an overview of activities planned for Human Relations Week.

There were no priority items from the City Attorney.

Relative to Consent Agenda Item 3 [Ordinance Amending Section 2-20 of the City Code - City Council Meetings], City Clerk Gray provided Council with a revised ordinance outlining a minor correction in the second paragraph.

**SUBJECT: ORDINANCE AMENDING SECTION 2-20 OF THE CITY CODE -
CITY COUNCIL MEETINGS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an Ordinance amending Section 2-20 of the City Code Concerning City Council Meetings as revised was approved at 7:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

FEBRUARY 3, 2003

Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12752

Council Member Clement requested that the Durham Housing Authority 2003-04 budget be added to the February 6, 2003 City Council Work Session agenda. Also, he requested that Council send an expression of concern to Wilco Food Mart for firing an employee who assisted the police in capturing a criminal.

Mayor Pro Tempore Cheek expressed concern with Council getting involved in the hiring and firing practices of private businesses.

Mayor Bell spoke in support of letter but requested the Police Department to provide more information.

Council Member Clement will provide details of this situation at the February 6th City Council Work Session.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 5 [Major Site Plan and Preliminary Plat -- Carlton Towns at Hope Valley Farms], 6 [Major Site Plan - The Townes of Hollymeade], 18 [Amendment to Lease Agreement--City of Durham and AT&T Wireless Services], 25 [Barnes Avenue Update], 26 [Crime Initiative], 36 [Fee Resolution for Sales and Solicitation Ordinance], 37 [Phoenix Crossing Shopping Center], and 40 [Legislative Program].

Relative to Consent Agenda Item 15c [Speed Limit Reduction], Council Member Stith disclosed that he lives on Shalimar Drive.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the City Council minutes for the following meetings was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

December 16, 2002 – Regular Meeting
January 6, 2003 - Regular Meeting

FEBRUARY 3, 2003

SUBJECT: ORDINANCE TO AMEND ORDINANCE 12728 CONCERNING A TECHNICAL CORRECTION TO THE EAGLE'S POINTE -PHASE III ANNEXATION AREA

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to amend Ordinance 12728 concerning a technical correction to the Eagle's Pointe – Phase III Annexation Area consistent with N.C. General Statute 160A-31 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12734

SUBJECT: DEVELOPMENT VENTURES, INC. - GOLDEN BELT ROOF – BUILDING 2

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the expenditure of \$100,000 from CDBG funds; and

To authorize the City Manager to execute a subrecipient grant agreement with Development Ventures Incorporated for the replacement of roofing on part of Building 2 in the Golden Belt Facility; and

To authorize the City Manager to make changes to the agreement before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the agreement was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: SETTING THE DATE FOR THE FY 2003-2004 CONSOLIDATED ACTION PLAN “NEEDS” PUBLIC HEARING

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to set the date for the FY 2003-2004 Consolidated Action Plan “Needs” Public Hearing to be held on February 17, 2003 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: THE DEMOLITION OF THE WOOLWORTH BUILDING LOCATED AT 119 WEST PARRISH STREET AND 124 WEST MAIN STREET - D.H. GRIFFIN WRECKING COMPANY, INC.

To authorize the City Manager to enter into a set price, all-inclusive contract with D.H.Griffin Wrecking Company, Inc. in the sum of \$800,000 for the controlled

FEBRUARY 3, 2003

demolition, environmental management, transport and debris disposal of the Woolworth Building according to the bid specifications dated April 2, 2002; and

To adopt an ordinance amending General Capitol Improvement Ordinance, as amended, the same being ordinance number 12587; and

To authorize the City Manager to make changes to the contract before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contract.

This item was moved to the 2/06/03 Work Session.

SUBJECT: STREET ACCEPTANCE - ADLETT PARK – RIDGEWOOD, PHASE IV – ASHFIELD PLACE, PHASE I – VANTAGE POINTE – CROASDAILE FARM, PHASE VI

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to accept certain streets in Adlett Park, Ridgewood - Phase IV, Ashfield Place - Phase I, Vantage Pointe and Croasdaile Farm - Phase VI, as listed for maintenance by the City of Durham was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Adlett Park

1. Birds Nest Court - from the existing City limit line south thru the cul-de-sac (542'), and
2. Lost Tree Court - from the existing City limit line south thru the cul-de-sac (389').

Ridgewood – Phase IV

1. Pebblestone Drive – from the end of PH III @ STA 12+32.52 north to the end of PH IV @ STA 17+53.15 (521'), and

Ashfield Place – Phase I

1. Starwood Lane – from the centerline of Paces Ferry Drive west then south thru the cul-de-sac (481'), and
2. Brickstone Place – from the centerline of Paces Ferry Drive south thru the cul-de-sac (603'), and
3. Ashfield Drive – from the east ditch line of Guess Road east to the centerline of Paces Ferry Drive (370'), and
4. Paces Ferry Drive – from the centerline of Ashfield Drive north to the end of construction @ STA 26+87.06 (138'), and
5. Paces Ferry Drive – from the centerline of Ashfield Drive south to the end of construction @ STA 39+71.29 (1,146').

Vantage Pointe

1. Stardust Drive – from STA 28+50 @ Stonemill Place east to end of Phase @ STA 38+10(960), and

FEBRUARY 3, 2003

2. Stonemill Place – from the centerline of Stardust Drive south thru the cul-de-sac (380’), and
3. Mornings Way – from the centerline of Stardust Drive thru the cul-de-sac (212’), and
4. Dunnhaven Place – from the centerline of Stardust Drive west thru the cul-de-sac (365’).

Croasdaile Farm – Phase VI

1. Trail Wood Drive – from the beginning of Phase VI @ STA 81+93.58 west to the end of construction @ STA 60+75.31 (2,118’), and
2. Tin Barn Place – from the centerline of Trail Wood Drive west thru the cul-de-sac (775’), and
3. Sagewood Place – from the centerline of Trail Wood Drive northwest thru the cul-de-sac (523’), and
4. Gray Bluff Place – from the centerline of Trail Wood Drive north thru the cul-de-sac (436’), and
5. Springhouse Place – from the centerline of Trail Wood Drive north thru the cul-de-sac (772’).

SUBJECT: WATER EXTENSION AGREEMENT WITH THE GMH FAMILY, LLC - HOCK PLAZA

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a water extension agreement with The GMH Family, LLC, to serve Hock Plaza was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: WATER & SEWER EXTENSION AGREEMENT WITH THE MMDT FAMILY, LLC - DURHAM UROLOGY

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a water and sewer extension agreement with The MMDT Family, LLC to serve Durham Urology was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: STOP SIGNS AND YIELD SIGNS - LANGDON DRIVE – ARRINGTON PARK DRIVE – GREENWICH PLACE – SARATOGA DRIVE – LILLINGTON DRIVE – FANNING WAY – NEW BEDFORD COURT

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance to repeal Ordinance #12685, adopted November 4, 2002, authorizing the installation of stop signs on Langdon Drive at Arrington Park Drive, northwest and southeast corners was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell,

FEBRUARY 3, 2003

Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12748

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing the installation of yield signs at the following locations was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

- a. Langdon Drive at Arrington Park Drive, northwest and southeast corners; and
- b. Arrington Park Drive at Langdon Drive, northeast and southwest corners.

Ordinance #12749

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing the installation of a stop sign at the following location was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

- a. Greenwich Place at Vanderbilt Court, northwest corner (Greenwich Oaks);
- b. Saratoga Drive (Private) at Lillington Drive, east corner (The Villages at Independence Park II – The Lafayette);
- c. Lillington Drive at Danube Lane, northeast corner (The Villages at Independence Park II – The Yorkshire);
- d. Fanning Way at Danube Lane, northeast corner (The Villages at Independence Park II – The Hamilton);
- e. New Bedford Court at Fanning Way, southeast corner (The Villages at Independence Park II – The Hamilton); and
- f. Fanning Way at Lillington Drive, southwest corner (The Villages at Independence Park II – The Hamilton).

Ordinance #12750

SUBJECT: TWENTY-FIVE MILES PER HOUR SPEED LIMIT REDUCTION – STINHURST DRIVE – LAKEHURST COURT – SHALIMAR DRIVE – HAYCOX COURT – MONTEITH COURT – RHYGATE COURT – AVONLEA COURT – LANDRETH COURT – AINSLEY COURT - CORNELL STREET – VALLEY DRIVE – CHENAULT DRIVE – COLLIER ROAD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance authorizing a speed limit of 25 mph along the following street segments was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

FEBRUARY 3, 2003

- a) Stinhurst Drive from Herndon Road to Wineberry Drive,
- b) Lakehurst Court from Stinhurst Drive to end of city maintenance,
- c) Shalimar Drive from Grandale Road to Stinhurst Drive,
- d) Haycox Court from Stinhurst Drive to end of city maintenance,
- e) Monteith Court from Stinhurst Drive to end of city maintenance,
- f) Rhygate Court from Stinhurst Drive to end of city maintenance,
- g) Avonlea Court from Stinhurst Drive to end of city maintenance,
- h) Landreth Court from Shalimar Drive to end of city maintenance,
- i) Ainsley Court from Herndon Road to end of city maintenance,
- j) Cornell Street from Morehead Avenue to Lakewood Avenue,
- k) Valley Drive from Holt School Road to the west intersection of Sanderson Drive,
- l) Chenault Drive from Alston Avenue to Chicago Street, and
- m) Collier Road from Alston Avenue to end of city maintenance.

Ordinance #12751

**SUBJECT: AMENDMENT NO. 2 TO TRANSFER STATION OPERATION
CONTRACT – BROWNING FERRIS INCORPORATED [BFI]**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to amend the existing contract with (BFI) to change the performance bond amount was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: NCDOT MUNICIPAL AGREEMENT (PROJECT U-3309 B) FOR
IMPROVEMENTS TO T. W. ALEXANDER DRIVE FROM EAST
OF NC 147 (DURHAM FREEWAY) TO SOUTH MIAMI BLVD. (SR
1959)**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution authorizing the City Manager to enter into a municipal agreement with the N. C. Department of Transportation for the T. W. Alexander Drive widening project; and

To authorize the expenditure of an estimated \$17,349 from the City's Federal and State Match Capital Project Fund for the City's non-federal match of the project cost was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #8955

**SUBJECT: SOFTWARE MAINTENANCE AGREEMENT -
ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.**

FEBRUARY 3, 2003

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the Master Software License Agreement with Environmental Systems Research Institute, Inc. and to purchase software maintenance service in the amount of \$43,795; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and are consistent with the general intent of the version of the agreement approved by City Council was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: ENVIRONMENTAL AFFAIRS BOARD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a presentation regarding the environmental indicators for the triangle area was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MANAGED COMPETITION PRESENTATION

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on managed competition from the citizens committee was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: TAX COLLECTION OPTIONS PRESENTATION

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive the Administration's report on alternatives to Durham County collection of City of Durham property taxes was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: TOM COULTER

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Tom Coulter on enforcement of traffic laws was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

FEBRUARY 3, 2003

SUBJECT: LEVERN HARPER – SOUTH ALSTON AVENUE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Levern Harper on resurfacing South Alston Avenue was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: STORM DEBRIS GRINDING AND DISPOSAL AND COLLECTION/MONITORING SERVICES – HOLMES CONTRACTING – CONSTRUCTION CONTROL CORPORATION OF DURHAM

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a verbal report on the status of the storm debris grinding and disposal; and

To adopt the Ordinance amending the Federal Emergency Management Agency Grant Project Ordinance #12710 for the December 2002 Ice Storm by increasing the total project amount from \$5,100,000 to \$11,200,000; and

To authorize the City Manager to amend the existing contract for storm debris collection services with Holmes Contracting of Cary, NC to increase the total contract price, based on volume collected, to an amount not to exceed \$3,200,000; and

To authorize the City Manager to amend the existing contract for debris collection monitoring services with Construction Control Corporation of Durham, NC to increase the total contract price, based on hours worked, to an amount not to exceed \$200,000 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12747

Note: Due to the bid process, the proposed Grinding and Disposal Contract will appear on the February 6, 2003 City Council Work Session agenda.

SUBJECT: ENVIRONMENTAL, LEAD ASSESSMENT, DEMOLITION AND ASBESTOS CONTRACTS - MATRIX HEALTH AND SAFETY CONSULTANTS – GIBBS GRADING, INC. – 535 BARNES AVENUE

To authorize the City Manager to execute a contract for Phase One, Environmental Assessment with Engineering Consulting Services in the amount of \$3,000; and

To authorize the City Manager to execute a lead based paint consulting services contract with Matrix Health and Safety Consultants in an amount not to exceed \$5,000; and

FEBRUARY 3, 2003

To authorize the City Manager to execute a contract with Gibbs Grading, Inc. in the amount of \$3,800 for the demolition and asbestos removal for the dwelling at 535 Barnes Avenue; and

To authorize the City Manager to make changes to the contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts.

Note: By a vote of 6/0, this item was approved at the January 30, 2003 City Council Work Session.

SUBJECT: CABLE TV ADVISORY BOARD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for citizens to fill three (3) vacancies. Terms will expire October 31, 2003 was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

At this time during the meeting GBA Item 2 [Raleigh-Durham Airport Authority] was discussed.

SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY - APPOINTMENT

To appoint a citizen to fill one (1) vacancy on the Raleigh-Durham Airport Authority. The term will expire January 1, 2005.

Mayor Pro Tempore Cheek gave an overview of letters received from the Raleigh-Durham Airport Authority and Kenneth D. Gibbs, Sr. requesting that Mr. Gibbs be allowed to serve an additional term based on the exception contained in the City's ordinance allowing additional service based upon unusual circumstances. Also, the Mayor Pro Tem outlined reasons contained in letter from the Authority why Mr. Gibbs should continue on the Authority for an additional two-year term.

A motion was made by Mayor Pro Tempore Cheek seconded by Council Member Clement to re-appoint Kenneth D. Gibbs, Sr., on the Raleigh-Durham Airport Authority for a fourth term due to unusual circumstances.

Council Member Best spoke in opposition to the motion urging Council to consider the three applicants who have followed policies and procedures.

City Clerk Gray made comments regarding the continuous terms of William A. Clement [January 1979 – January 1991] and noted Council approved limiting terms a citizen may serve on boards, committees and commissions on November 20, 1989.

A substitute motion was made by Council Member Clement to waive the policy of Council limiting a citizen to serve three consecutive two-year terms on the Raleigh-Durham Airport Authority. Motion dies for a lack of a second.

FEBRUARY 3, 2003

Several Council Members spoke in support of original motion.

Council held discussion on unusual circumstances.

For clarification, Mayor Bell noted the City Clerk informed him that the taxes have not been checked for Mr. Gibbs.

City Clerk Gray noted taxes are always checked before a name is brought to Council and this has not been done in this case because his name was not submitted.

Mayor Pro Tempore Cheek made a friendly amendment to ask the City Clerk to verify the taxes of Mr. Kenneth D. Gibbs, Sr.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to re-appoint Kenneth D. Gibbs, Sr., on the Raleigh-Durham Airport Authority to a fourth term due to unusual circumstances contingent on his taxes being current -- term expires January 1, 2005 was approved at 7:42 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden and Stith. Noes: Mayor Bell and Council Member Best. Excused Absence: Council Member Edwards.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT -- CARLTON TOWNS AT HOPE VALLEY FARMS (POD MM, PHASE III) (CASE D02-490)

LaVonnia Allison, representing DCABP, expressed density, open space, school impact and M/WBE concerns. Also, she noted there was no information provided on the number/size of lots.

Frank Duke, City/County Planning Director, noted issues raised by Ms. Allison are not appropriate for consideration since this is not a rezoning matter and noted staff cannot consider race regarding any site plan or rezoning issue.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan and preliminary plat for eight single family lots and 37 two-story town homes in seven buildings with 74 motor vehicle parking spaces and four bicycle parking spaces on a +/- 13.88 acre site zoned PDR 3.44 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MAJOR SITE PLAN - THE TOWNES OF HOLLYMEADE (CASE# D02-363)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a major site plan, submitted by Duane K. Stewart and Associates, on behalf of Tarheel

FEBRUARY 3, 2003

Steaks, Inc., consisting of 42 one and two story town homes on 6.168 acres, zoned RM-8(D)and E-B, located on the east side of Horton Road, north of Chalk Level Road, south of Candlewick Way. (Tax Map 314-01-002)(PIN 0823-07-68-4789), City Atlas: Page 12, Section C-2 was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND AT&T WIRELESS SERVICES, INC., D/B/A AT&T WIRELESS SERVICES

To approve the Amendment to the Lease Agreement between the City of Durham and AT&T Wireless Services, Inc., d/b/a AT&T Wireless Services, and

To authorize the City Manager to execute the Amendment to the Lease Agreement; and

To authorize the City Manager to make changes to the amendment provided they do not change the intent and purpose of the amendment.

Mayor Pro Tempore Cheek requested this item be referred to the February 6 City Council Work Session so that staff can provide information on the \$2,000 increase amount for the City and the matter regarding antennas.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to refer this item to the February 6, 2003 City Council Work Session was approved at 7:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: BARNES AVENUE UPDATE

To receive an update on the Barnes Avenue Redevelopment Area.

Bob Novak, of 5500-89A Fortunes Ridge, expressed concern about Goose Creek. He asked Council to cover it up and not waste the money to place a trail/park near it. Also, he spoke in support of lottery for 535 Barnes Avenue.

City Manager Conner informed Council the State has indicated there are no funds available for the improvement of Goose Creek and she has requested the Housing Director to utilize CDBG funds to make improvements related to Goose Creek as part of the Barnes Avenue redevelopment. Also, she noted the administration will bring a plan to the February 20, 2003 Work Session that will allow non-profits to receive homes for \$1 in a lottery.

Council Member Best noted before houses are given away for a \$1, the administration should offer them to the general public.

FEBRUARY 3, 2003

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive an update on the Barnes Avenue Redevelopment Area was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: CRIME INITIATIVE

Victoria Peterson noted the City Council is in violation of citizens' federal rights and expressed crime concerns.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive an update on Crime Initiative was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: FEE RESOLUTION FOR SALES AND SOLICITATION FEE ORDINANCE

To adopt a Resolution establishing fees and allowing limited credits and refunds for permits under Chapter 17 of the City Code.

Bob Novak, of 5500-89A Fortune Ridge, made comments about rack sales expressing safety and litter issues.

A motion was made by Mayor Pro Tempore Cheek seconded by Council Member Clement to approve the item as printed on the agenda.

Council Member Best spoke in opposition to this item.

Relative to sidewalk seating fees, Acting Finance Director Ken Pennoyer noted the \$75 is a one-time fee to defray the cost of the permitting process and initial inspection.

Council held discussion on fees.

A substitute motion was made by Council Member Stith seconded by Council Member Cole-McFadden to implement the permitting process minus fee structure.

Council held discussion on whether the substitute motion eliminates all fees or new fees.

For clarification, Council Member Stith noted the motion is to move forward with establishing a permitting process for the outlined permits in the public right-of-way without a fee associated with it not intending to supercede existing ordinances.

City Attorney Blinder rephrased the substitute motion.

FEBRUARY 3, 2003

SUBSTITUTE MOTION by Council Member Stith seconded by Council Member Cole-McFadden to adopt a revised Resolution to set the fee for all the permit categories listed at zero dollars except for those permit categories for which there are currently existing fees, and for those to keep the fees where they currently are was approved at 8:21 p.m. by the following vote: Ayes: Mayor Bell and Council Members Clement, Cole-McFadden and Stith. Noes: Mayor Pro Tempore Cheek and Council Member Best. Excused Absence: Council Member Edwards.

Resolution #8956

**SUBJECT: UPDATE FROM CITY STAFF ON THE MERCHANTS AT
PHOENIX CROSSING SHOPPING CENTER – ZURI AND
ASSOCIATES**

To receive a report from city staff; and

To authorize the City Attorney's Office to send a notice of failure to perform under the loan agreement to Zuri and Associates if they do not satisfactorily correct the deficiencies in a prompt manner as determined by the Administration.

Housing Director Charlene Montford made comments on this item. She gave an overview of the revised February 3, 2003 memo [Update on Complaints from Merchants of Phoenix Crossing Shopping Center].

Council Member Cole-McFadden asked the administration if they did a thorough job relative to the inspections prior to occupancy.

Relative to the landscaping issue, City/County Planning Director Frank Duke, stated landscaping was originally installed and required. He noted landscaping is not there and must be replaced according to ordinance.

Gene Bradham, Inspections Director, noted curb cuts is an item that was overlooked by the inspector and discussed other issues outlined in memo.

Denise Hester, of 3526 Abercromby Drive/Phoenix Crossing owner, expressed a concern with the process, repeated inspections done by the various departments and lateness in receiving the memo tonight.

Larry Hester, of 3526 Abercromby Drive/ Phoenix Crossing owner, noted the City should not be involved in their contractual relationship with their merchants and noted they were not informed officially of the complaints.

LaVonnia Allison, representing DCABP, noted she was disturbed that no official notification on any of these issues were received and urged Council to correct the process.

FEBRUARY 3, 2003

Denise Hester made additional comments noting we are always the last to find out about these issues. She asked the administration how issues noted in memo could put them in default if they have a valid certificate of occupancy.

City Manager Conner made comments about tonight's process noting this is not a default letter at this point but a report and response to Council on the status of the project that there are items that need to be brought to the appropriate care. Also, she noted the next step would be to send a letter of notification.

Mayor Bell recommended that this item be referred to the February 6, 2003 City Council Work Session for further discussion to allow Denise and Larry Hester an opportunity to meet with staff.

City Attorney Blinder briefed Council on the issue of default.

MOTION by Mayor Pro Tempore Cheek and seconded by Council Member Stith to refer this item to the February 6, 2003 City Council Work Session was approved at 8:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: LEGISLATIVE PROGRAM

Council Member Stith asked questions that were answered by staff relative to the NC Tourism Development Act. Also, he requested a copy of the final Bill.

City Manager Conner indicated the final legislative package will be provided at the February 20, 2003 City Council Work Session.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt a Resolution Supporting Legislation (House Bill 99 from the 2001-2002 Session) to Authorize Counties and Cities to Levy a Menu of Local Option Taxes, If Approved by the Voters; and

To adopt a Resolution Supporting the North Carolina Tourism Development Act was approved at 8:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden and Stith. Noes: Council Member Best. Excused Absence: Council Member Edwards.

Resolution #8957 - 8958

[GENERAL BUSINESS AGENDA]

SUBJECT: CONTRACTS

As a priority item, City Manager Conner requested that Mindframes Consulting contract be deleted from the list.

FEBRUARY 3, 2003

Council Member Best asked the administration when will Council receive an update on the service contract policies.

City Manager Conner noted an update will be provided at February 6, 2003 City Council Work Session.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to authorize the City Manager to execute the following list of contracts [with the exception of the Mindframes Consulting Contract]; and

To authorize the City Manager to make changes to the attached list of contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 8:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Contractor	Department	CT Amount
Currin Patterson Investments	Public Wks	\$ -
Triangle Auto Body	Public Wks	\$ -
Steve Truckenbrod	P&R	\$ 500.00
Josephus Vanhook	P&R	\$ 600.00
Raymond Scott	P&R	\$ 600.00
Frank Wong	P&R	\$ 2,500.00

SUBJECT: YOUTH COMMISSION

DeWarren Langley, of 1030 Moreland Avenue, thanked Council for their support in adopting the Youth Commission Resolution back in September. Also, he raised a concern why it would take until May 13, 2003 to complete an Interlocal Agreement between Durham City Council and Board of County Commissioners concerning this matter.

City Manager Conner noted the date coincides with the Joint City/County Committee Meeting schedule.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a "Resolution Endorsing an act to Create and Maintain a Youth Commission in the City of Durham" amending Resolution #8909 was approved at 8:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #8959

**SUBJECT: CHANGE ORDER FOR FLEET MAINTENANCE TIRE STORAGE
– L. A. DOWNEY & SONS, INC.**

FEBRUARY 3, 2003

MOTION by Council Member Stith seconded by Council Member Best to approve a change order in the amount of \$4,888 to L.A. Downey & Sons, Inc.; and

To authorize the City Manager to make changes to the change order before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the change order was approved at 8:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: PERFORMING ARTS THEATER – REQUEST FOR PROPOSALS - WEBB MANAGEMENT SERVICES

To direct the City Manager to develop a Request for Proposals (RFP) for the operation and/or the design of a performing arts theater; and

To amend the contract for Webb Management Services in the amount of \$17,000 to assist with the development of the RFP for the performing arts theater.

A motion was made by Council Member Stith seconded by Council Member Clement to approve the item as printed on the agenda.

Council Member Best noted the RFP should show all the funds available for public investment is \$1.4 million (1% sales tax).

City Manager Conner made comments regarding two parties who have expressed an interest in the project.

A friendly amendment was made by Mayor Bell to authorize the City Manager to have discussions with initial parties (2) who have expressed an interest in the design of a performing arts theater [City Manager will brief the Council on the results of those discussions]. Friendly amendment was accepted.

MOTION by Council Member Stith seconded by Council Member Clement to direct the City Manager to develop a Request for Proposals (RFP) for the operation and/or the design of a performing arts theater; and

To amend the contract for Webb Management Services in the amount of \$17,000 to assist with the development of the RFP for the performing arts theater; and

To authorize the City Manager to have discussions with initial parties (2) who have expressed an interest in the design of a performing arts theater [City Manager will brief the Council on the results of those discussions] was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

FEBRUARY 3, 2003

SUBJECT: FY 2003-04 BUDGET

To receive public comment on the City of Durham's FY 2003-04 Budget.

The public hearing was opened by Mayor Bell.

Susan Gill, representing Housing Action Team – Durham CAN, urged Council to support funding for two support staff and four housing code inspectors (one bilingual) for the Housing Department to inspect substandard housing.

Kent Gill, representing Housing Action Team –Durham CAN, asked Council to make two staff support and four housing code inspectors a permanent part of the budget.

Cheryl Sweeney, representing the Inter-Neighborhood Council, urged Council to consider co-funding with the County for the creation of a Neighborhood College for Durham.

Fred Foster, representing Durham Voter Coalition, urged Council to provide funds to educate parents of drop outs through creating a Neighborhood College.

Melvin Whitley, representing Durham Voter Coalition, raised a concern with blight/substandard housing and urged Council to raise the minimum housing standards and to create a certification fee for rental property (inspection).

Mary Ann Crea, representing Durham CAN, requested \$50,000 for a needs assessment and strategic plan for the Workforce Development Board to develop a job training system.

David Fitts, representing Durham CAN, spoke in support of Council allocating \$50,000 for a needs assessment and strategic plan.

Rich Lee, representing Campaign for Decent Housing, provided Council with a handout outlining recommendations (8) on housing initiatives and programs for Council support. He urged Council to: 1) Continue investment in affordable housing; 2) encourage business community; 3) become more involved in affordable housing, include inclusionary housing, mixed income housing especially around transit station; and 4) to look at ways to make the development process for affordable housing easier.

Glyndola Beasley, representing Campaign for Decent Housing, urged Council to support increased housing supportive services—homebuyer education and housing counseling.

Steve Hopkins, representing Campaign for Decent Housing, spoke in support of Campaign's proposal Items 6 [Residents who may be displaced by the redevelopment of Barnes and Hope VI area need City support for Case Managers and housing services and 7 [Increasing housing costs, high defaults and low homeownership are increasing the need for housing counseling and education programs for renters and homeowners in Durham]. He noted the County has committed \$12,900 and need \$28,000 more to fund the other half of the case manager position this year.

FEBRUARY 3, 2003

Phyllis Peacock, representing Women-in-Action, urged Council to provide financial assistance to rental assistance programs to make sure people have their basic needs met.

Cyndi Haden, representing Campaign for Decent Housing, urged Council to fund rental rehabilitation and rental assistance programs.

Mike Shiflett, representing Campaign for Decent Housing, requested Council to add inspectors to budget permanently, donate surplus land to organizations such as Habitat for Humanity and raise fines and penalties on minimum housing code violations.

Bob Appleby, representing Campaign for Decent Housing, requested Council to fund four housing inspectors [one bilingual] and two support staff for the Housing Department.

Diane Wright, representing Campaign for Decent Housing, urged Council to consider funding efforts in the areas of safe, affordable and decent housing and continue to work with Barnes Avenue area.

Dewarren Langley, representing Teenagers Politically Active, spoke in support of Council funding youth programs.

Orlando Vasquez, representing Latin Soccer League, requested a soccer field, which will be an asset to league and children of Durham.

Estender Ramos, representing Latin Soccer League, spoke in support of Council providing a soccer field.

Victoria Peterson urged Council to create a crime commission and to set aside \$3 to \$6 million to build a vocational training facility with housing to help African American men to stop committing crime.

Steven Matherly, representing People's Alliance, noted the four new housing inspectors and two support staff should be made permanent.

John Schelp, representing Old West Durham, spoke in support of a Neighborhood college.

Stella Adams, representing NC Fair Housing Center, spoke in support of homeownership, the proposals for the Campaign and Durham Voter Coalition.

Mayor Bell declared the public hearing closed.

Council Member Clement announced the Coffee with Council for District 3 will be held February 8, 2003 at Family Life Center (formally Lyon Park).

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to receive public comment on the City of Durham's FY 2003-04 Budget was approved at 10:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and

FEBRUARY 3, 2003

Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

MOTION by Council Member Best seconded by Mayor Pro Tempore Cheek to extend the meeting beyond 10:00 p.m. was approved at 10:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-30 - NC 55 PROPERTY - TICON, INC. – EAST SIDE OF HIGHWAY 55, SOUTH OF INTERSECTION WITH SEDWICK ROAD

To receive public comment on rezoning Case P02-30 (NC 55 Property).

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-30 out of NC and RD and placing same in and establishing same as NC(D) and OI-2(D).

Zoning Committee Recommendation and Vote: Denial - (4-3)

Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report commenting on the committed elements, noted proposal is consistent with all small area plan requirements, staff's recommendation is for approval and the Zoning Committee recommended denial based on school overcrowding.

Mayor Bell opened the public hearing.

Proponent

Attorney Jack Markham, representing the applicant, spoke in support of this rezoning. He made comments on the use, floodplain area, and impervious surface. He noted the developer will be dedicating a 50 feet wide greenway pursuant to the Durham Urban Trails and Greenway Master Plan, the proposal is consistent with plans, and the new elementary school in southern Durham will reduce the pressure on Parkwood Elementary School in the coming years. Also, Attorney Markham informed Council that all apartments will be one-bedroom units.

Frank Duke, City/County Planning Director, asked the applicant if all apartments (one-bedroom) are a committed element.

Ron Horvath, representing the applicant, replied yes.

Opponent

LaVonnia Allison, representing DCABP, expressed a concern about cramming apartments into limited areas. Also, she expressed school overcrowding concerns.

FEBRUARY 3, 2003

Rebuttal

Attorney Jack Markham, representing the applicant, made comments about the clientele and the easy access to I-40 and RTP. Also, he noted there will not be many students attending schools out of one-bedroom apartments.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Best seconded by Council Member Stith to receive public comment on rezoning Case P02-30 (NC 55 Property); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-30 out of NC and RD and placing same in and establishing same as NC(D) and OI-2(D) was approved at 10:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-36 – BENNINGTON – BEAZER HOMES – BETWEEN CHANDLER ROAD AND BREEDLOVE AVENUE

To receive public comment on rezoning Case P02-36 (Bennington).

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-36 out of R-8, R-10, R-20 and PDR-8.5; F/J-B and placing same in and establishing same as PDR-4.0.

Zoning Committee Recommendation and Vote: Denial - (7-0)

Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, noted there was a request at the Work Session to continue this rezoning to the March 3, 2003 City Council Meeting. Also, he stated a valid protest petition has been filed against this rezoning.

Mayor Bell opened the public hearing.

Proponents

Stephanie Norris, representing the applicant, spoke in support of this rezoning request commenting on the proposal. Also, she noted it is the applicant's intent to increase property values.

George Young, representing the applicant, requested that this item be deferred to the March 3, 2003 City Council Meeting in order for the applicant to meet with the neighbors to discuss their concerns.

FEBRUARY 3, 2003

Opponents

David Johnson, of 331 Chandler Road, spoke in opposition to this rezoning. He noted the Association did not stop the negotiations with Beazer Homes and would like to negotiate with them, but would like to have good faith negotiations. Also, he noted there are six homeowner associations against this development.

LaVonja Allison expressed density and down zoning concerns.

Rebuttal

Stephanie Norris, representing the applicant, made comments about the zoning, floodplain area and noted this development would be an asset for this area of the city.

Council Member Clement informed proponents it would require six Council votes to pass this rezoning due to the valid protest petition.

MOTION by Council Member Clement seconded by Council Member Stith to continue the public hearing without further advertising to the March 3, 2003 City Council Meeting was approved at 10:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-54- SOUTHPOINT TERRACE (DAVIS HEIRS) – CENTEX HOMES – 7905 NC HIGHWAY 751, EAST SIDE OF NC 751, SOUTH OF RENAISSANCE PARKWAY

To receive public comment on rezoning Case P02-54 (Southpoint Terrace).

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-54 out of RD; FJ-B and placing same in and establishing same as PDR-5.27.

Zoning Committee Recommendation and Vote: Approval - (6-1)

Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report. He noted proposal is consistent with NC54/I-40 Corridor Plan, highlighted committed elements and noted staff/the Zoning Committee recommended approval.

The public hearing was opened by the Mayor.

Proponents

Will Anderson, representing applicant, spoke in support of this rezoning commenting on the uses and density. He noted the applicant is dedicating a 50 feet right-of-way for the American Tobacco Trail and urged City Council to approve this rezoning request.

FEBRUARY 3, 2003

Scott Remmy, representing the applicant, spoke in favor of rezoning request tonight since the applicant has agreed to address concerns. He noted the best use of the land would be a low-density residential development and a single road extension of current community and expressed concern with the pace of development in southwest Durham and around the Southpoint Mall.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comment on rezoning Case P02-54 (Southpoint Terrace); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-54 out of RD; FJ-B and placing same in and establishing same as PDR-5.27 was approved at 11:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE P02-58 - MAIDA VALE – MAIDA VALE, LLC - SOUTH SIDE OF EPHEsus CHURCH ROAD, WEST SIDE OF GEORGE KING ROAD

To receive public comment on rezoning Case P02-58 (Maida Vale).

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-58 out of RD, R-20 FJ-B and placing same in and establishing same as PDR-1.73.

Zoning Committee Recommendation and Vote: Denial- (4-3)
Planning Department Recommendation: Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report. He outlined committed elements and staff is recommending approval based on conformance to the adopted plans and compatibility with the surrounding areas and the Zoning Committee recommended denial based on the Commissioners not taking action at that time on the new school proposed directly across from site; however, the Commissioners approved the school site at their January 6 meeting.

Mayor Pro Tempore Cheek asked staff if the applicant is requesting a reduction of the building separation between the duplex-townhome units, from 60' to 20' and does staff have any concerns.

Frank Duke, City/County Planning Director, replied yes and noted staff does not see the reduction as an issue.

Council held discussion on the tree coverage.

FEBRUARY 3, 2003

Mayor Bell opened the public hearing.

Proponents

Attorney Jack Markham, representing the applicant, spoke in support of this rezoning commenting on the new school, lot size, roundabout, and price range of duplexes/houses. He noted proposal is consistent with the South/West Durham, 2020 Comprehensive and Thoroughfare Plans. Attorney Markham urged Council to approve this project.

Ron Horvath, representing the applicant, made comments about the tree coverage area. He provided Council with a memo dated February 3, 2003 that outlines a note has been added to the most recent set of plans relative to committed element #12. For clarification, he noted the applicant is committed to the tree coverage area--a minimum of 20% and would like to move it around within the shaded areas.

Mayor Bell asked the applicant how much value does it add to the development by having the reduction of the building separation.

Ron Horvath, representing the applicant, noted it's not monetary, but it adds aesthetic value.

Frank Duke, City/County Planning Director, advised Council that they should view the compatibility of the bulk and scale of the development in considering the reduced separation. Also, he noted this is not a value issue but a compatibility issue.

Opponents

Peter Schubert, representing the Bicycle & Pedestrian Advisory Commission, requested that Council take the action necessary to ensure the developer commits to construction of a bicycle facility on Ephesus Church Road between Pope Road and the Chapel Hill town limits at the western edge of the development as noted in letter from Chair Brian Morton.

Ed Harrison, Chapel Hill Town Council Member, spoke in opposition to this rezoning. He asked Council to not grant this request for a rezoning and development plan without obtaining from the applicant the commitment to add a section of bicycle facility on Ephesus Church Road which is not currently among the committed elements in the development plan.

Mike Waldroup, representing Durham Area Designers, spoke in opposition to this rezoning expressing future transportation issues--specifically transit going through the area and land use concerns. He requested that Council ask the applicant to go back and talk with TTA, planning staff and bring back proposals in conformity with the density guidelines that are provided by all the adopted plans and urged the Mayor to meet with the Chair of the Board of County Commissioners and the TTA manager to develop a plan for protecting the crucial future station area.

Rebuttal

FEBRUARY 3, 2003

Relative to the request for bike lanes on Ephesus Church Road between Chapel Hill town limits and Pope Road, Attorney Jack Markham, representing the applicant, noted the applicant is doing no road improvements on that side; however, the applicant is putting in sidewalks. He stated the applicant is putting in bike lanes along Ephesus Church Road from the intersection of Pope Road to the intersection of George King Road and then along George King Road opposite the school and will be putting sidewalks on all sides. Also, he made comments regarding the cost of asphalt and transit station.

Planning Director Frank Duke noted the applicant is not providing bike lanes on George King Road but a dedication of additional right of way that may be sufficient for bicycle facilities.

Ron Horvath, representing the applicant, stated the applicant would be adding for their half of road when the applicant does the widening, curb and gutter a two foot bike lane on George King Road as a committed element.

The Mayor declared the public hearing closed.

Mayor Pro Tempore Cheek asked the applicant why 2' instead of 4' for the bicycle lane.

Ron Horvath, representing the applicant, noted the 2-foot is standard and if the applicant builds a 4-foot bike lane it will be a different from what the school is building across the street.

Wesley Parham, of Transportation Department, noted a 4-foot provision would be a continuation of what is being provided in the Town of Chapel Hill on the western end of Ephesus Church Road.

Ron Horvath, representing the applicant, noted the applicant will donate \$15,000 to the City of Durham's bicycle program to construct a bike lane on Ephesus Church Road between Pope Road and Chapel Hill town limits as a committed element.

City Attorney Blinder briefed Council on the basis for approving this rezoning noting the decision should be based on consistency of plans and surrounding area and land use consideration.

Planning Director Frank Duke asked Council if the motion includes the provision for the reduced separation between duplex-townhome units to 20 feet as requested by the applicant.

Council Member Clement replied yes.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comment on rezoning Case P02-58 (Maida Vale); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-58 out of RD, R-20 FJ-B and placing same in and establishing same as PDR-1.73; and

FEBRUARY 3, 2003

To include the provision for the reduced separation between the duplex and town homes units to 20 feet as requested by the applicant [this is based on a determination by Council that considering the bulk and scale of the development it will be compatible with the surrounding area] was approved at 11:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: TEXT AMENDMENT FOR ADDITIONS TO MIXED USE ZONED TRACTS (TC03-01)

To hold a public hearing to receive comment on Text Amendment TC 03-01 (Additions to Mixed Use Zoned Tracts); and

To adopt the ordinance amending the Durham Zoning Ordinance to make changes concerning mixed use zoned tracts.

Zoning Committee Recommendation and Vote - Approval 7-0
Planning Department Recommendation – Approval

Frank Duke, City/County Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing and no one spoke in support or in opposition to this rezoning. The Mayor declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to hold a public hearing to receive comment on Text Amendment TC 03-01 (Additions to Mixed Use Zoned Tracts); and

To adopt the ordinance amending the Durham Zoning Ordinance to make changes concerning mixed use zoned tracts was approved at 11:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12753

There being no further business to come before the City Council, the meeting was adjourned at 11:24 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk